

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 30 OCTOBER 2018

ROOM G90, HOVE TOWN HALL - ROOM G90, HOVE TOWN HALL

MINUTES

Present: Councillor ; Hyde, Knight and O'Quinn

Officers: Mark Savage-Brooks (Licensing Officer), Helen Staplehurst (Sussex Police), Donna Lynsdale (Licensing Authority Officer), Gregory Weaver (Democratic Services Services)

PART ONE

54 TO APPOINT A CHAIR FOR THE MEETING

54.1 Councillor O'Quinn was appointed Chair for the meeting.

55 PROCEDURAL BUSINESS

55a Declaration of Substitutes

55.1 There were none.

55b Declarations of Interest

55.2 There were none.

55c Exclusion of the Press and Public

55.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

55.4 **RESOLVED** - That the press and public be not excluded from the meeting.

56 SEVEN CELLARS LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

56.1 The Panel considered a report of the Executive Director of Neighbourhoods, Communities & Housing in relation to an application for a variation of a Premises Licence under the Licensing Act for Seven Cellars, 104A Dyke Road, Brighton. Present at the hearing were: Louise Oliver (Applicant), Mark Savage-Brooks (Licensing Officer), Hannah Staplehurst (Sussex Police), Donna Lynsdale (Licensing Authority Representation).

Introduction from Licensing Officer

56.2 The Licensing Officer addressed the panel and stated the following:

- This was an application for a variation to the existing Premises Licence issued for Seven Cellars at 104A, Dyke Road, Brighton
- The Applicant had applied to extend alcohol off sales hours from 8pm to 10pm every day, as well as removing condition 3 under Annex 2 which reads 'no single cans of beer will be sold'. The applicant was also amending the plan attached under Annex 4 of the licence. No further variations were being applied for.
- The current licence allowed sales of alcohol off the premises only from:
 - 10am – 8pm Monday to Saturday and
 - 11am to 8pm on Sundays
- Two relevant representations were received concerning the extension of hours proposed within the application, from Sussex Police and the Council's Licensing Team in their role as a responsible authority. Both representations contained relevant concerns relating to two of the Licensing Objectives: the Prevention of Crime and Disorder and the Prevention of Public Nuisance
- An agreement was reached between the applicant and Sussex Police within the consultation period for the application, so that instead of removing the 'single can' restrictive condition. It was replaced with one that read: "Only Premium, specialty Craft Beers and Craft Lagers may be sold in single containers, however, no mainstream branded beers, lagers or ciders can be sold in single containers and must be sold in a minimum pack of 4."
- The Police and Licensing Team stated in their representations that they did not contest this part of the application
- As indicated in both representations received, the premises was situated within the Council's Special Stress Area which, as stated in the Statement of Licensing Policy at 3.2 was deemed an area of special concern in terms of the levels of crime, disorder and nuisance experienced. The policy stated that applications for variations within the SSA would not be subjected to the presumption of refusal, but operators will be expected to pay special attention when drawing up their operating schedules and to make positive proposals to ensure that their operation would not add to the problems faced in these areas
- The adoption of the Matrix approach to licensing decisions found in the statement of licensing policy and this agenda included a table providing a framework of what the licensing authority would like to have seen in its area
- The panel were reminded that each application was still considered on its own merits and that there was discretion to depart from the policy where justified.

Questions to the Licensing Officer

56.3 In response to Councillor O'Quinn, the Licensing Officer stated that the applicant's original licence was issued in November 2015. It was noted that a variation was granted that did not go to panel.

Representation from Sussex Police

56.4 Hannah Staplehurst, Sussex Police, addressed the panel and stated the following:

- This was a variation application for an off licence within the Special Stress Area as defined by the Brighton & Hove City Council Statement of Licensing Policy 2016. This application was asking for an extension of hours for the retail of alcohol every day between 8pm-10pm
- The Brighton & Hove City Council special policy stated that the applicants for premises in the special stress area need to demonstrate positive proposals to ensure that their operation would not add to the problems faced in these areas as set out in paragraphs 3.2.1 – 3.2.3 of the 2016 BHCC statement of licensing policy
- The very existence of the Special Stress Area evidenced that the locale had pre-existing issues around high levels of alcohol consumption and anti-social behaviour both of which could potentially be added to with an extension of hours for this off licence. This was further evidenced by representations received from the local authority
- The applicant had also requested to remove condition three on their licence:
 - “No single cans of beer will be sold”
- With some consultation Sussex Police had agreed the following and raised no objection to the change of the condition:
 - “Only Premium, specialty Craft beers and Craft lagers may be sold in single containers , however no mainstream branded beers, lagers or ciders can be sold in single containers and must be sold in a minimum pack of 4”
- Ultimately this application fell outside of the matrix and it was for the applicant to demonstrate how their application would have no negative cumulative impact and the steps they would take to mitigate risk.

Questions to Sussex Police

56.5 In response to Councillor O'Quinn, Ms Staplehurst stated the following:

- Of the incidents that had occurred in the area in the past 12 months, only 2 were alcohol related
- In one case the Applicant had reported the incident to the relevant authorities

56.6 In response to Councillor Hyde, Ms Staplehurst stated the following:

- This representation was made as the application ran against the policy as per the licensing matrix

- Agreed with Councillor Hyde that, by notifying the authorities of a previous incident, the applicant had proved they were responsible

Representation from Licensing Authority

56.7 The Licensing Authority Officer addressed the panel and stated the following:

- The licensing team's representation was against the application to vary the premises licence to extend the sale of alcohol hours until 10am. The applicant also requested the removal of a condition. This had been agreed to be replaced with new wording, the licensing authority had no objection to this part of the application
- The premises sat within the Special Stress Area which was, as stated in the Statement of Licensing Policy (page 15) was deemed an area of special concern in terms of the levels of crime and disorder and nuisance experienced
- The Council's statement of Licensing Policy included a Matrix approach for licensing decisions providing a vision of what the licensing authority liked to see within its area. The decision making matrix stated that off-licences within the Special Stress Area should not be granted
- However, the Statement of Licensing Policy stated that variation applications for premises within the SSA would not be subject to the presumption of refusal, but operators were expected to pay special attention when drawing up their operating schedules to make positive proposals to ensure that their proposed operation would not add to the problems faced in the area
- The Licensing Authority recognised that the applicant made a statement within the application addressing the types of products sold, the pricing and the premises consumer audience, but despite this, Licensing Team were unsure that this fully demonstrated exceptional circumstances for departing from the Matrix policy to allow extra hours within the SSA
- As guardians of the Council's Statement of Licensing Policy, a representation was made on behalf of the Licensing Team on the grounds of the Prevention of Crime and Disorder and Prevention of Public Nuisance to uphold the policy and so that the panel could determine the application.

Questions to the Licensing Authority Officer

56.8 In response to Councillor Hyde, the Licensing Authority Officer confirmed that the Licensing Team had made the representation due to the matrix.

Representation from the Applicant

56.9 The Applicant addressed the panel and stated the following:

- There was a large shift in the UK and across Europe of people drinking less but of a higher quality and this was a venue to promote this
- Noted that Sussex was producing some of the best sparkling wines and spirits
- The venue had given lots of local start-up businesses their first start-up
- Emphasis was placed on links with graduates from Plumpton College, some of whom worked at Seven Cellars

- It was stated that the applicant had also studied at Plumpton college and had maintained engagement with students
- Had developed a working relationship with Hotel Du Vin
- Efforts were being made to developing export links across Europe
- It was noted that local wine makers had benefitted a lot from the business
- The venue was the first wine merchant to offer refill / reuse bottles for wine which contributed to a low carbon footprint
- The business had developed links with local charities
- In reference to 3.5 of the Matrix the applicant stated that no cheap drinks were being sold in the shop that would be bought for pre-loading purposes.

Questions for Applicant

56.10 In response to Councillor O'Quinn, the applicant stated that the original application was a request for operation until 9pm however agreed to an 8pm finish. It was further stated that the applicant had used the time since to demonstrate the business was responsibly run with the intention to submit this application. The applicant stated that they were happy to agree to Councillor O'Quinn's suggestion for new hours

56.11 In response to Councillor Hyde, the applicant stated the following:

- The venue had provided work experience opportunities to many students as well as having employed students and graduates
- Gave a brief overview of currently available wines that were in rotation
- Clarified that in the process of providing a bottle re-fill service, import costs were lowered, as a result savings were able to be passed on to customer
- 2 staff members would be working until 10pm

Summaries

56.12 The Licensing Officer addressed the panel and stated the following:

- The applicant had applied to extend the time she was currently permitted to sell alcohol, from 8pm to 10pm every day. However, different times had been canvassed during the meeting of an 8pm finish to alcohol sales on Sundays, 9pm finish on Monday to Wednesday and 10pm only on Thursday, Friday and Saturday
- The application was also made to remove one condition regarding single cans of beer only being sold and this was agreed within the consultation period to be replaced with a different condition. It had been canvassed further that this condition should read, "Only Premium, specialty and craft beers, lagers and ciders may be sold in single containers, however, no mainstream branded beers, lagers or cider can be sold in single containers and must be sold in a minimum pack of 4."
- A further condition regarding staff being on the premises was also canvassed that 2 members of staff should be present on the premises from 8pm to close on Thursday, Friday and Saturday
- The plan attached to Annex 4 was also being replaced to reflect the current layout of the premises
- The premises was situated in the Council's Special Stress Area which was covered by a Special Policy within the Council's Statement of Licensing Policy

- Licensing Guidance stated that,
 - In determining this application with a view to promote the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
 - The steps that were necessary to promote the licensing objectives
 - The representations (including supporting information) presented by all the parties
 - The Section 182 Guidance itself; and
 - Its own statement of licensing policy
- It was important to note that each application would be given individual consideration on its own merit.

56.13 The Sussex Police Representative addressed the panel and stated the following:

- This was an application for further licensable activity in the SSA which fell outside the matrix
- The panel was invited to consider the position of Sussex Police and to make a decision based on the Statement of Licensing Policy and the matrix.

56.14 The Licensing Authority Officer addressed the panel and stated that the Licensing Authority submitted the representation to uphold the Statement of Licensing Policy and to refer the decision making of the application to the Panel.

56.15 The applicant had no further comments.

Decision

56.16 **Resolved** – The panel’s decision was as follows:

The Panel has read all the papers, and listened to the submissions made at the hearing.

This is an application for a variation to extend hours for sale of alcohol off the premises until 22:00 hours every day and remove the condition relating to sale of single cans.

The premises falls within the Special Stress Area (SSA) which, as detailed in our statement of licensing policy, is deemed an area of special concern in terms of the relatively high levels of crime and disorder and public nuisance experienced within it. Furthermore the Matrix policy approach in our policy indicates a ‘no’ for off-licences within the SSA.

The panel heard from the police and the licensing authority. An alternative condition relating to single sales was agreed between the police and the applicant, but there was still concern about the extension of hours in this area.

The panel heard from the applicant about the nature of her premises and style of operation. There was an emphasis on quality wines and beers including organic and gluten free. There was emphasis too on education about wines and strong links with local producers and Plumpton College. The premises sponsored community events and

local charities including local churches and Chestnut Tree House. The panel was impressed by this unique style of operation and considered that it was exceptional in many ways. In discussions with the applicant a compromise was reached regarding extension of hours which the panel considered would mean that there was unlikely to be any negative impact upon the area or the licensing objectives.

The panel therefore grant this application in the following terms and with the following conditions:

1. Hours for Sale of Alcohol (off the premises) and opening will be: Monday to Wednesday 10:00 to 21:00; Thursday, Friday and Saturday 10:00 to 22:00, and Sunday 11:00 to 20:00.
2. The condition about single cans to be replaced by a condition as follows: Only Premium, speciality craft beers, lagers and cider may be sold in single containers, however no mainstream branded beers lagers or ciders can be sold in single containers and must be sold in a minimum pack of 4.
3. On Thursday, Friday and Saturday there will always be a minimum of 2 staff working in the premises from 20:00 hours to close.

The meeting concluded at 11:20am.

Signed

Chair

Dated this

day of